

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

LASER DESIGN INTERNATIONAL, LLC;
NORWOOD OPERATING COMPANY,

Plaintiffs,

v.

BJ CRYSTAL, INC, a California corporation;
CASHMAN PHOTO ENTERPRISES OF
NEVADA, a Nevada corporation; CRYSTAL
MAGIC, INC., a Florida Corporation; U.C.
LASER, INC., a New Jersey corporation;
VITRO LASER GROUP U.S.A., INC., a
Nevada corporation; JIMAC MARKETING
INC., a Canadian corporation; CONCORD
INDUSTRIES, INC., a Connecticut
corporation; C. STIEFELMAYER GMBH &
Co. KG, a German limited partnership;
CERION GMBH, a German limited liability
company; CRYSTAL CAPTURE INC., a
Texas corporation; CRYSTAL CAPTURE
INTERNATIONAL, LLC, a Nevada limited
liability company; G.W. PARTNERS
INTERNATIONAL, INC., a California
corporation; HIRSCH GIFT INC., a Texas
corporation; VISIONS IN CRYSTAL, INC., a
California corporation; VITRO LASER
GMBH, a German limited liability company,

Defendants.

AND RELATED COUNTERCLAIMS

Lead Case No. C 03-1179 JSW
Consolidated with No. C 03-3905 JSW

**ORDER RE MOTION TO STRIKE
AND MOTION FOR LEAVE TO
SERVE**

On November 20, 2006, in connection with its reply brief in support of its motion for summary judgment, Plaintiff filed a motion to strike the declarations of Eric Van Stryland and Steven M. Rhodes, which were filed by Defendants in support of their opposition to Plaintiff's

1 motion for summary judgment. Plaintiff seeks to strike these declarations on the grounds that
2 they contain expert rebuttal evidence submitted after the deadline for expert rebuttal reports had
3 expired. Defendants did not file a response to Plaintiff's motion to strike. Instead,
4 approximately one month later, on December 18, 2006, Defendants filed a motion for leave to
5 serve an expert rebuttal report after the deadline. Defendants seek to have their motion heard
6 on the same day Plaintiff's motion for summary judgment and motion to strike are scheduled to
7 be heard.

8 The Court construes Defendants' motion for leave as an opposition to Plaintiff's motion
9 to strike. Plaintiff's may file a reply brief in support of its motion to strike, and respond to
10 Defendants' evidence and argument regarding the expert rebuttal report, by no later than
11 January 5, 2007. The Court will address the parties' arguments regarding the expert rebuttal
12 report at the same time it addresses Plaintiff's motion for summary judgment.

13 **IT IS SO ORDERED.**

14
15 Dated: December 20, 2006



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE